

CHAPTER 7412
DEPARTMENT OF PUBLIC SAFETY
DRIVER AND VEHICLE SERVICES DIVISION
DRIVING UNDER THE INFLUENCE OF ALCOHOL
OR CONTROLLED SUBSTANCE

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REVOCACTION; SUSPENSION

7412.0200 PURPOSE.

The purpose of parts 7412.0200 to 7412.1200 is to establish standards for effective administration of the driver licensing laws governing the revocation of license and related suspension periods, issuance of limited licenses, reinstatement of driving privileges, and other actions taken with respect to alcohol-related or controlled substance-related incidents under Minnesota Statutes, sections 169.121 and 169.123, and other related statutes, pursuant to Minnesota Statutes, section 169.128.

Statutory Authority: *MS s 169.128*

7412.0300 SCOPE.

The scope of parts 7412.0200 to 7412.1200 is intended to be confined within the framework of and consistent with the provisions of Minnesota Statutes, chapters 169 and 171.

Statutory Authority: *MS s 169.128*

7412.0400 DWI REVOCATIONS.

Subpart 1. Statutory convictions. When there has been a conviction under Minnesota Statutes, section 169.121, 169.129, or 171.245, the license shall be revoked and suspended for a period of time as indicated in items A to D, under authority of Minnesota Statutes, section 169.121 or 171.17.

A. First offense: revoked and suspended until 30 days after surrender of the license certificate to the commissioner.

B. Second offense within three years: revoked and suspended until 90 days after surrender of the license certificate to the commissioner.

C. Third or subsequent offense within five years: revoked and suspended until one year after surrender of the license certificate to the commissioner; and also denied under authority of Minnesota Statutes, section 171.04, clause (8), until such time as the person demonstrates rehabilitation to the commissioner's satisfaction.

The first time, evidence of rehabilitation shall include not less than six months of total abstinence verified as may be prescribed by the commissioner, and successful completion of a chemical dependency treatment program acceptable to the commissioner or such alternative evidence as may be approved

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by the commissioner in the individual case, before any license or limited license is issued.

If a person has filed evidence of rehabilitation once and has resumed the use of alcohol or controlled substance, the required evidence of rehabilitation shall be as indicated above, except that one year of verified total abstinence shall be required before any license or limited license is issued.

In any subsequent situation, rehabilitation shall be established as prescribed by the commissioner on a case-by-case basis.

D. Third offense on record in more than five years: the license shall be revoked and the matter referred to the chief driver evaluator for special review and a determination as to whatever additional action may be appropriate.

E. Fourth or subsequent offense on record: the license shall be revoked and suspended until one year after surrender of the license certificate to the commissioner; and also denied under Minnesota Statutes, section 171.04, clause (8), until such time as rehabilitation has been established in accordance with item C.

Subp. 2. **Additional suspension time.** Additional suspension time in certain cases.

A. If the offense involved an accident resulting in great bodily harm, an additional 60 days of suspension time shall be imposed and added to the basic period set forth in subpart 1, subject to a maximum period of one year. For the purposes of parts 7412.0200 to 7412.1200, "great bodily harm" as defined in Minnesota Statutes, section 609.02, subdivision 8, means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

B. If the offense results in death to another person, an additional five months shall be added to the basic period set forth in subpart 1, subject to a maximum period of one year. For the purposes of parts 7412.0200 to 7412.1200, the presence of an accident report or other sufficient evidence in the files of the Department of Public Safety shall be deemed sufficient to make this item applicable.

C. If the person has had a prior suspension or revocation on the record within five years, the suspension period imposed on the last prior suspension or revocation may be added to the basic period set forth in subpart 1, subject to a maximum period of one year.

Subp. 3. **Commissioner's discretion.** Nothing in this subpart shall be deemed to preclude the exercise of the commissioner's discretionary authority under Minnesota Statutes, section 171.04, clause (8), in such other cases as may be appropriate under the circumstances.

Statutory Authority: *MS s 169.128*

7412.0500 COURT-ISSUED REVOCATION NOTICE FORM.

Subpart 1. **When issued.** When a person is convicted of violating Minnesota Statutes, section 169.121, the court will serve notice of the coming revocation upon the person, under authority of Minnesota Statutes, section 169.121, subdivision 7. Where a revocation proposed under Minnesota Statutes, section 169.123, has been sustained by the court, the court will likewise serve notice of the coming revocation upon the person, under authority of Minnesota Statutes, section 169.123, subdivision 6. This notice shall be given by use of a form prescribed by the commissioner.

Subp. 2. **Contents of notice form.** While the wording and format of the notice form shall be subject to revision from time to time, the notice form shall contain the following:

A. Space in which to fill in the date on which the notice form is issued.

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B. Space to fill in the first, middle, and last name of the person, the person's current residential address, including city, state, and zip code, date of birth, driver license number, traffic ticket or case number, the person's height and weight, the class of license certificate held, and the restrictions listed on the license, if any.

C. A notice of revocation. Separate boxes to indicate whether the revocation is made under Minnesota Statutes, section 169.121 or 169.123. The notice of revocation under Minnesota Statutes, section 169.123, shall indicate that the revocation will take effect 30 days from the date on which the notice form is issued, and may contain boxes to indicate whether the revocation is for six months for refusing testing or for 90 days for failing the test.

D. An order of revocation. The form shall advise that upon the expiration of either ten or 30 days as indicated in item C, the same form shall be the actual revocation order. The form also shall advise that if proof of filing an appeal has been filed with the commissioner within the time specified, the revocation will be postponed until a final determination is made adverse to the person.

E. A statement to advise that the court is required to take all license certificates in the person's possession, but that if the person has a valid license, the court may issue a temporary license effective for either the ten-day or 30-day periods indicated in item C.

F. A temporary license. The entire form shall be valid as a temporary license, and a temporary license portion of the form shall indicate whether the temporary license is valid for ten days or 30 days. A space shall be provided for the court to indicate that no temporary license has been issued because the person did not have a valid license.

G. An affidavit for lost license. The form shall include space for a person to sign a statement that the license has been lost or destroyed for use in cases where the driver is unable to surrender the license.

H. Space for the signature of the issuing judge of county court or municipal court, together with the date of issuance.

I. Any additional information the commissioner may deem appropriate.

Subp. 3. **Forwarding to the commissioner.** The issuing court shall forward the department's copy of the notice of revocation form to the commissioner within five days, together with any license certificate or certificates surrendered by the licensee.

Statutory Authority: *MS s 169.128*

7412.0600 DEPARTMENTAL TEMPORARY LICENSE FORM.

Subpart 1. **When issued.** In cases when a person has filed with the commissioner proof that a timely appeal has been filed from a conviction on a charge of violating Minnesota Statutes, section 169.121, upon application by the person a temporary license may be issued unless the driving privileges of that person are already suspended, revoked, cancelled, or denied. In cases where the person has filed with the commissioner proof that a timely appeal has been filed from an order sustaining a proposed revocation under Minnesota Statutes, section 169.123, a temporary license may be similarly issued.

Subp. 2. **Contents of temporary license form.** While the wording and format of the temporary license form shall be subject to revision from time to time, the form shall contain the following:

- A. a serial number and space for the date of issuance;
- B. full name and address of the person, including residential address, city, state, and zip code;

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- C. driver license number and date of birth;
- D. height and weight;
- E. restrictions, if any;
- F. traffic ticket number or case number of the matter during pendency of which the temporary license is issued;
- G. space for the signature of the driver evaluator issuing the temporary license; and
- H. a notice that it is valid for a period of 180 days or until the related judicial proceeding has been decided, whichever comes first.

Subp. 3. **Renewal of temporary license.** In the event that the related judicial proceeding is not concluded within 180 days, additional temporary licenses may be issued upon application.

Statutory Authority: *MS s 169.128*

7412.0700 POLICE-ISSUED REVOCATION NOTICE FORM.

Subpart 1. **When issued.** When a person has refused to submit to testing when required to do so by a peace officer pursuant to Minnesota Statutes, section 169.123, or when the person has submitted to a test which has disclosed an alcohol concentration of .10 percent or more, the peace officer shall serve notice upon the person of the proposed revocation under authority of Minnesota Statutes, section 169.123.

Subp. 2. **Contents of notice form.** While the wording and format of the notice form shall be subject to revision from time to time, the notice form shall contain the following:

- A. Date of issuance and name of law enforcement agency issuing the notice.
- B. Traffic ticket or case number and the name of the court in which the related traffic charges, if any, are pending.
- C. Full name and date of birth.
- D. Driver license number, height, and weight.
- E. Full address, including residential address, city, state, and zip code.
- F. Notice of proposed revocation under Minnesota Statutes, section 169.123. The notice portion of the form shall indicate whether the proposed revocation is to be for six months for refusing testing or 90 days for failing the test; and advise that the revocation will take effect 30 days after the date of issuance unless there has been a prior demand for hearing.
- G. Information as to how a hearing must be requested.
- H. An order of revocation. The form shall advise that if there has been no receipt of a request for hearing within the 30-day period indicated in item F, the same form will constitute a revocation order, and that if there has been a timely request for hearing, the revocation will be postponed until a final judicial determination is made adverse to the person.
- I. A statement informing the person that the peace officer is required to take all license certificates in the person's possession and, if the person has a valid license, to issue a temporary license effective for the 30-day period indicated in item F.
- J. A temporary license. The entire form shall be valid as a temporary license, and shall indicate what class license the person holds, as well as all restrictions noted on the license. A space shall be provided for the peace officer to indicate that no temporary license has been issued because the person did not have a valid license.
- K. An affidavit for lost license. The form shall include space for a person to sign a statement that the license has been lost or destroyed, for use in cases where the driver is unable to surrender the license.

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L. Space for the signature of the peace officer issuing the notice of revocation form, together with the business telephone number of the peace officer.

M. Any additional information which the commissioner may deem appropriate.

Subp. 3. **Forwarding to the commissioner.** The issuing peace officer shall forward the department's copy of the notice of revocation form to the commissioner on the same or next business day, together with any license certificate or certificates surrendered by the person, copies of the implied consent law peace officer's certificate and other reports pertaining to the incident.

Statutory Authority: *MS s 169.128*

7412.0800 DEPARTMENTAL NOTICE OF PROPOSED REVOCATION.

Subpart 1. **When issued.** In cases where a peace officer has not served notice of a proposed revocation as provided in part 7412.0700, the commissioner shall give notice of the proposed revocation of the person's driving privileges under authority of Minnesota Statutes, section 169.123, upon receipt of an implied consent law peace officer's certificate indicating that the person is subject to the sanctions of the statute.

Subp. 2. **Contents of notice.** The notice shall advise the person whether the proposed revocation is for six months for refusing to submit to testing or for 90 days for failing the test. It shall advise the person that the revocation order will take effect 30 days after delivery of the notice of proposed revocation unless the person has filed a written request with the commissioner within that period. It shall advise the person as to the procedure for demanding a hearing, and may contain such additional information as the commissioner may deem advisable. The wording and format of the notice shall be subject to revision from time to time.

Subp. 3. **How given.** The notice of proposed revocation shall be sent by certified mail to the last known address. If returned as undeliverable for any reason, notice shall be sent by first class mail to the last known address, and shall be deemed to have been delivered on the third day after mailing.

Statutory Authority: *MS s 169.128*

7412.0900 HEARING REQUESTS, TIMELINESS.

A demand for hearing under Minnesota Statutes, section 169.123 shall not be considered timely unless actually delivered to the commissioner and received by him within 30 days after notice of the proposed revocation has been given as provided by part 7412.0700 or 7412.0800.

Statutory Authority: *MS s 169.128*

7412.1000 NOTICE TO OTHER STATES; WHEN ISSUED.

In cases where the driving privileges of a nonresident are revoked under authority of Minnesota Statutes, section 169.121, 169.123, or 171.17, the commissioner shall forward a report of the action taken to the licensing authority of the nonresident's home jurisdiction and of any other state in which the person is known to hold a license.

Statutory Authority: *MS s 169.128*

7412.1100 LIMITED LICENSES.

Subpart 1. **Revocations under Minnesota Statutes, sections 169.121 and 171.17, clause (2).** Limited licenses may be issued to qualified applicants under authority of Minnesota Statutes, section 171.30. Such licenses shall be issued only for employment purposes (driving to and from an existing remunerative job or on the job), and for attendance at chemical dependency treatment or counseling programs. Before a limited license may be issued, the person must

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pass the complete driver license examination, paying the fee required therefore; make application for a new license, paying the fee required for the class of license involved; and complete an alcohol problem assessment interview, either through the court or the department.

Subp. 2. **Revocations under Minnesota Statutes, section 169.123.** Limited licenses may be issued to qualified applicants under authority of Minnesota Statutes, section 169.123, subdivision 9. Such licenses may be issued for employment purposes and for chemical dependency treatment or counseling programs as indicated in subpart 1. In addition, other types of driving may be authorized upon approval of the chief driver evaluator. Before a limited license may be issued the person must complete an alcohol problem assessment interview, either through the court or the department; must pass the complete driver license examination; and must make application for a new license, paying the fee required for the class of license involved. A reexamination fee will not be required.

If the revocation relates to the third or subsequent violation within five years, no limited license may be issued. All driving privileges shall be denied under authority of Minnesota Statutes, section 171.04, clause (8), until such time as rehabilitation has been established as provided in part 7412.0400.

If the revocation relates to the fourth or subsequent violation on the licensee's record, no limited license may be issued. All driving privileges shall be denied under authority of Minnesota Statutes, section 171.04, clause (8), until such time as rehabilitation has been established as provided in part 7412.0400.

Statutory Authority: *MS s 169.128*

7412.1200 EARLY REINSTATEMENT.

Any person applying for early reinstatement pursuant to Minnesota Statutes, section 169.123, subdivision 10, must provide written documentation satisfactory to the commissioner that the treatment or counseling program was recommended by the counselor conducting the alcohol problem assessment interview, and that the person has successfully completed the program.

Statutory Authority: *MS s 169.128*

ALCOHOL SAFETY PROGRAM: PRESENTENCE INVESTIGATION

7412.5100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 7412.5100 to 7412.5600 have the meanings given them in this part.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of public safety.

Subp. 3. **Presentence investigation.** "Presentence investigation" means an evaluation of the convicted defendant concerning his prior traffic records, characteristics and history of alcohol problems, and amenability to rehabilitation through the alcohol safety program.

Subp. 4. **Department.** "Department" means the Department of Public Safety.

Statutory Authority: *MS s 169.124 subd 2*

7412.5200 PURPOSE.

The purpose of parts 7412.5100 to 7412.5600 is to carry out the mandate of the legislature as set forth in Minnesota Statutes 1976, section 169.124, with reference to the promulgation of rules and standards for reimbursement to the counties.

Statutory Authority: *MS s 169.124 subd 2*

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7412.5300 SCOPE.

The scope of parts 7412.5100 to 7412.5600 is intended to be confined within the framework and consistent with Minnesota Statutes 1976, section 169.124.

Statutory Authority: *MS s 169.124 subd 2*

7412.5400 METHOD OF REPORTING.

Any county conducting presentence investigations as required by Minnesota Statutes, section 169.124 shall be eligible for reimbursement by submitting reports of the investigation in the following manner.

A. A copy of the report of presentence investigation DPS 36017 (5-77) shall be the only acceptable basis for reimbursement.

B. The report shall be accompanied by the notice of conviction when submitted to this office. Where a uniform traffic citation is used, the certificate of conviction shall be attached to the report.

Statutory Authority: *MS s 169.124 subd 2*

7412.5500 REQUIRED ELEMENTS OF REPORT.

The presentence investigation report shall include:

A. a clear indication that the investigation included consideration of the following items specified in Minnesota Statutes, section 169.124:

- (1) an evaluation of the defendant concerning prior traffic record;
- (2) characteristics and history of alcohol problems;
- (3) amenability to rehabilitation through alcohol safety programs;

and

(4) a recommendation as to a treatment or rehabilitation program;

B. the full name, date of birth, and driver license number of the convicted defendant who is the subject of the presentence investigation;

C. the name of the county in which the presentence investigation was held;

D. the date on which the presentence investigation was held;

E. the date of the offense which necessitated the presentence investigation;

F. the blood alcohol concentration at the time of arrest if available;

G. an indication of whether or not the defendant may have a drinking problem;

H. the final disposition of the case; and

I. the name of the court-designated agency conducting the presentence investigation.

Statutory Authority: *MS s 169.124 subd 2*

7412.5600 REIMBURSEMENT CLAIMS.

Subpart 1. **Forms.** Claims for reimbursement for presentence investigations shall be made on forms provided by the department.

Subp. 2. **Time limit.** All claims must be submitted within ten days after the end of the fiscal year.

Statutory Authority: *MS s 169.124 subd 2*